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Via Electronic Mail

OH-MedicareMedicaidCoordination@cms.hhs.gov

Melanie Bella
Medicare-Medicaid Coordination Office
Centers for Medicare and Medicaid Services
200 Independence Avenue SW
Mail Stop Room 315-H
Washington, DC 20201

The National Senior Citizens Law Center appreciates the opportunity to comment on the proposal submitted by Ohio for its demonstration to integrate care for dual eligible individuals. NSCLC is a non-profit organization whose principal mission is to protect the rights of low-income older adults through advocacy, litigation, and the education and counseling of local advocates.

We appreciate that Ohio is proposing to use the dual eligible demonstration to better coordinate services and to rebalance long-term supports and services so more duals can live safely in the community. Consumers and advocates in Ohio report that they are supportive of efforts by the state to improve and coordinate care for dual eligibles. A productive interaction has begun, but it has only just gotten started.

We have limited our comments to several of the larger issues that we believe need to be addressed so that the Ohio proposal can turn into a viable and effective demonstration. As noted below, we support the comments of Ohio advocates with respect to the many particular details that are either lacking or in need of further development.

A meaningful stakeholder process is only beginning. Ohio's early engagement with stakeholders was vague and high level. Only in the last couple of months have details about the state's plans emerged and, since then, opportunities for beneficiary input have been limited. The fact that the state submitted its final proposal to CMS only three days after the close of its draft comment period is indicative of the limited dialogue to date. Having said that, it appears that a more serious process is beginning and offers promise for developing a proposal that is responsive to the particular needs of duals in Ohio. We urge CMS to support these efforts to flesh out what is now a very broadly framed proposal but to recognize that, given where the

state is at present, the process cannot be completed in the timeframe proposed by the state.

The Ohio proposal needs a great deal of development. Ohio is to a large extent starting from scratch with its duals proposal. Although its non-dual ABD population is in mandatory Medicaid managed care, all institutionalized individuals, spend-down Medicaid eligibles, individuals receiving HCBS and duals are exempt. Its waiver services are not integrated with its Medicaid managed care and, as evidenced by its spending for institutional care versus community-based care, its HCBS network is underdeveloped. On the Medicare side, only 2-3% of its duals are enrolled in Medicare special needs plans. (See proposal at 5.) These facts suggest that much needs to be done to coordinate care for duals. But the same facts also show that Ohio, in contrast to several other demonstration states, is not building its demonstration on a foundation of extensive prior work.

While we applaud the state for beginning the effort, these realities suggest a particular need for careful program design and extensive on-the-ground preparation. These steps have not yet taken place and cannot reasonably be achieved in time for first enrollments in January, 2013.

State advocates have identified many specific areas where the state needs to drill down or revise its proposal. We share all their concerns about notices, transition rights, appeals, accessibility standards, network access, readiness and other areas they have highlighted.

But our more general point is that Ohio simply is not positioned to be one of the first states to implement a demonstration project. The state's experience with integrating LTSS with medical care, with D-SNPs, with every element necessary for a demonstration to work effectively is very limited. The state could learn much from a thoughtful demonstration but a rush to a January 2013 start date is not the right approach. The potential for beneficiary harm is just too great.

As CMS is aware, we have concerns about the speed of implementation of the demonstrations in several states. Those concerns are writ large in Ohio.

The state's enrollment proposal is inadequate and inappropriate for this demonstration. Ohio is proposing mandatory Medicaid enrollment, an opt-out on the Medicare side and a three-month lock-in. The state has not included any provisions for support of choice counseling by community-based organizations or other entities. The state's proposal also does not indicate whether there will be any matching with current beneficiary providers in the passive enrollment process. There also is no indication of whether enrollment will be phased.

Each element of the enrollment proposal is flawed. Together they pose serious dangers for the over 110,000 beneficiaries (over 60 percent of the state's full benefit dual eligibles) whom the state is proposing to enroll.

In our view, opt-in enrollment is the most appropriate enrollment vehicle for any demonstration. Leaving one's established care delivery network, however imperfect, to participate in an experiment should be an entirely voluntary choice. This is particularly true in Ohio which, as the state acknowledges, has little D-SNP penetration among dual eligibles and has not undertaken any significant integration of long-term supports and services with the rest of its Medicaid program. Since the jump to a fully integrated system will be a huge leap for the state, there should be no mandatory Medicaid enrollment, no opt-out and certainly no lock in. Phased-in implementation, both by county and through rolling enrollment caps would also be particularly appropriate to this demonstration.

Thank you for the opportunity to submit these comments. Please let us know if you have and questions or would like to discuss our comments further.

Sincerely,



Kevin Prindiville
Deputy Director



Georgia Burke
Directing Attorney